
EPC COMMISSION MINUTES & AGENDA

MONTH January

YEAR 1987

ADM-1-1-1
January 1987

MINUTES
ENVIRONMENTAL PROTECTION COMMISSION
Wallace State Office Building
Electronic Meeting
January 26, 1987

An electronic meeting of the Environmental Protection Commission was called by Chairman Robert Schlutz on January 26, 1987, at 3:00 p.m. to address approval of a new proposed code chapter 455F, entitled "Waste Management Authority" for submission to the legislature for consideration.

A roll call was taken. The following members were present: Keith Uhl, Linda Appelgate, Clark Yeager, Donna Hammitt, Charlotte Mohr, Gary Priebe, Nancy Lee Siebenmann, Catherine Dunn, Robert Schlutz, Richard Timmerman.

Members Absent
Wayne Gieselman

The electronic meeting, in accordance with 21.8, was necessary because this is a much more economical manner of conducting the meeting than incurring expenses to bring all Commissioners to Des Moines to handle one item.

The following item was considered:

ADOPTION OF NEW PROPOSED CODE CHAPTER 455F, WASTE MANAGEMENT AUTHORITY

Commissioners will be asked to vote on a staff proposal that will create a new division within the Department of Natural Resources, that being the Waste Management Authority. That entity will eventually operate or coordinate a facility to safely process or store hazardous wastes and possibly low-level radioactive wastes. It will also operate a statewide program similar to the toxic clean-up days which were pilot projects run last September by the DNR.

The Commission thoroughly reviewed each item in the bill. Following was a discussion regarding the term "Administrator" and the fact that there are no references to the Environmental Protection Commission anywhere in the bill.

Keith Uhl stated that he is concerned that the bill removes the supervision of the Environmental Protection Commission. He feels that rules, the waste management authority, etc. should be reviewed by and subject to the approval of the Commission.

Allan Stokes stated that the Environmental Protection Commission, under this bill would still have full authority for establishing regulations that govern the disposal of solid and hazardous wastes. The Commission will not have the authority to determine how a hazardous waste facility would be built, or govern the management of the facility.

This bill does not delete any of the authority the Commission has in 455B.

Keith Uhl proposed a language change indicating that the actions of the waste management authority would be subject to review and approval by the Environmental Protection Commission.

Motion was made by Keith Uhl to add the words "but all of it's actions shall be subject to the review and approval of the Environmental Protection Commission created under 455A" to the first sentence on page 2, line 3 of the proposed legislation. Seconded by Charlotte Mohr.

Linda Appelgate questioned the wording "all of it's actions" stating that this wording is too broad.

Keith Uhl stated that the intent is to have the same guidelines that the Environmental Protection Commission now has.

Allan Stokes suggested that, to clarify and tailor Commissioner Uhl's intent into what the existing Environmental Protection Commission's authorities are now, it may be better to add the clarification in at 455F.6. Mr. Stokes suggested that the words "subject to the approval of the Environmental Protection Commission" be added after the word shall, on page 3, line 11. The items one through eight following line 11 specifically states what the Environmental Protection Commission would have authority over.

James Combs suggested that, in order to put in a role for the Commissioners, a new section be created defining the duties of the Commission.

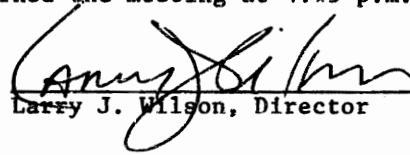
Keith Uhl withdrew his motion. Charlotte Mohr withdrew her second.

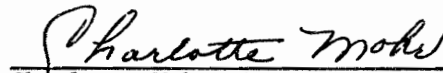
Motion was made by Keith Uhl to amend the bill, beginning on page 3, line 11 to the end of the bill, to direct staff to develop language that would incorporate and create the same relationship with the new waste management authority which now exists between the Commission and the Environmental Protection Division. Language should include, but not be limited to, having the facility siting, acquisition, and operation under the supervision of the Environmental Protection Commission. Seconded by Nancylee Siebenmann. Motion carried unanimously.

Motion was made by Catherine Dunn to approve the Waste Management Authority bill as a whole with the amendment to put Environmental Protection Commission authority in the bill. Seconded by Charlotte Mohr. Motion carried unanimously.

Motion was made by Donna Hammitt to adjourn. Seconded by Nancylee Siebenmann. Motion carried unanimously.

With no further business to come before the Environmental Protection Commission, Chairman Schlutz adjourned the meeting at 4:15 p.m., Monday, January 26, 1987.


Larry J. Wilson, Director


Charlotte Mohr, Secretary

Adm-1-1-1
January 1987

MINUTES
ENVIRONMENTAL PROTECTION COMMISSION
Wallace State Office Building
Des Moines, Iowa
January 20-21, 1987

The meeting of the Environmental Protection Commission was held in the Wallace State Office Building in Des Moines, Iowa on January 20, 1987 convening at 10:00 a.m.

MEMBERS PRESENT

Richard Timmerman, Linda Appelgate, Clark Yeager, Donna Hammitt, Keith Uhl, Wayne Gieselman, Charlotte Mohr, Gary Priebe, Nancy Lee Siebenmann, Catherine Dunn, Robert Schlutz.

ADOPTION OF AGENDA

Director Wilson stated that Item #6, Description of Rules for Groundwater Monitoring at Landfills, would be deleted as more time is needed for preparation.

Appointments were made for Stewart Lund of Handi-Klasp Co., Inc. at 11:00 a.m. and William Merrick of Tri-County Feeder Pig Association at 2:00 p.m.

Motion was made by Charlotte Mohr to approve the agenda as amended. Seconded by Catherine Dunn. Motion carried unanimously.

ADOPTION OF MINUTES

Motion was made by Nancy Lee Siebenmann to approve the minutes of December 15-16, 1986 and January 6, 1987 as presented. Seconded by Catherine Dunn. Motion carried unanimously.

LEGISLATIVE PACKAGE

Bob Fagerland, Deputy Director, presented the following proposed legislation and explained each in detail.

1. An act relating to dumping and depositing of solid waste at a place other than a permitted sanitary disposal project.
2. An act relating to the implementation of the Federal Resource Conservation Recovery Act.
3. An act relating to the delegation of the authority to prevent, abate, or control air pollution.
4. An act relating to and making appropriations to the Department of Natural Resources to pay assessments to the Midwest Interstate Low Level Radioactive Waste Compact and providing an effective date upon publication.

Discussion followed regarding certain groups being exempted from the #1 proposal listed above. Such groups would be allowed to dump solid waste on their own property.

Motion was made by Keith Uhl to approve the legislative package with the deletion of the #1 bill. Seconded by Clark Yeager.

Discussion followed regarding the bill being rewritten so that it applies across the board to all segments of the Iowa economy.

Chairman Schlutz called for a roll call vote. "Aye" votes were cast by Commissioners Yeager, Mohr, Priebe, and Schlutz. "Nay" votes were cast by Commissioners Timmerman, Appelgate, Hammitt, Uhl, Gieselman, Siebenmann, and Dunn. Motion failed 7 to 4.

Motion was made by Keith Uhl to approve the entire legislative package with the #1 bill amended so that there are no exemptions. Seconded by Wayne Gieselman.

There was further discussion regarding the proposed bill being unenforceable. Other sections of the code regarding litter were also discussed.

Keith Uhl withdrew his motion. Wayne Gieselman withdrew his second.

Motion was made by Clark Yeager to table action on this item until it is rewritten and presented in the afternoon session. Seconded by Charlotte Mohr. Motion carried unanimously.

MONTHLY REPORTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

Iowa Department of Natural Resources

Environmental Protection Commission

RULEMAKING STATUS REPORT

January 1, 1987

PROPOSAL	DRAFT TO COMMISSION	NOTICE PUBLISHED	RULES REVIEW COMMITTEE	HEARING	SUMMARY OF COMMENTS & RECOMMENDATIONS TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	RULE EFFECTIVE
1. Ch. 2 - Public Information	10/27/86	11/19/86	12/10/86	--	1/20/87	*1/20/87	*2/11/87	*3/18/87
2. Ch. 3 - Submission of Information	10/27/86	11/19/86	12/10/86	--	1/20/87	*1/20/87	*2/11/87	*3/18/87
3. Ch. 5 - Rulemaking	11/12/86							
4. Ch. 6 - Declaratory Rulings	11/12/86							
5. Ch. 22, 23 PSD	11/12/86	12/03/86	1/06/86	12/23/86 12/30/86 1/06/87				
6. Ch. 64 - Design Standards (12, 14, 16, 18C)								
7. Ch. 65 - Feedlots	11/12/86	12/03/86	1/06/86	12/23/86 12/30/86 1/05/87				
8. Ch. 135 - Underground Tank Monitoring	5/20/86	6/18/86 1/14/86	7/02/86	7/08/86	12/15/86	12/15/86	1/14/87	1/14/87
9. Ch. 140, 151 Hazardous Waste Sites	7/29/86	8/27/86	9/10/86	9/18/86	12/15/86	12/15/86	1/14/87	2/18/87

*Projected

MONTHLY VARIANCE REPORT

12/31/86

No. Facility	Program	Engineer	Subject	Decision	Date
1 Riverview Estates II	Wastewater Const.	Hankey Engr.	Site Separation	approved	12/02/86
2 Milton, City of	Wastewater Oper.		Monitoring Freq.	approved	12/03/86
3 Clow Corp. Plant No. 11	Wastewater Oper.		Sample Type	denied	12/16/86
4 Cherokee, City of	Wastewater Oper.		Opert Plant Classification	denied	12/23/86
5 United States Gypsum	Watersupply Const.		Design Basis	approved	12/04/86
6 New London, City of	Watersupply Const.	French-Reneker	Design Basis	approved	12/11/86

REPORTS OF HAZARDOUS CONDITIONS

During the period of December 1, 1986 through December 31, 1986, reports of 43 hazardous conditions were forwarded to the Central Office. Two incidents are highlighted, followed by general summary and the number per field office.

Date Reported and County	Description: Material, Amount, Date of Incident Cause, Location, Impact	Responsible Party	Response and Corrective Actions
12/11/86 JOHNSON	A driver hammered a stuck valve on a tanker truck and broke it off, causing about 1000 gallons of methylene chloride to spill at the Sheller Globe plant in Iowa City, Iowa on December 11, 1986. The material spilled on concrete and soil.	Lamars Transport 2519 16th Ave. SW Cedar Rapids, Iowa 52404	The material was immediately diked and pumped into 55-gallon drums. Residual material was absorbed and contaminated soil was excavated. Both were placed in drums, as well as water that was used to rinse the concrete. All drums were sent to a hazardous waste site.
12/21/86 POWESHIEK	On December 21, 1986, a soil fumigant known as Vortex Plus was discovered leaking from a 55-gallon drum in a truck at the junction of Interstate 80 and HWY 63 near Malcom, Iowa. Both drivers were taken to a hospital after complaining of a burning sensation to their eyes, lips, mouths and throats.	Nor-AM Chemical Co., 3509 Silverside Road, Wilmington, Delaware 19803	The truck was isolated. A contractor was hired to overpack the leaking drum and clean up the spilled material. The overpacked drum was sent to its original destination, and the absorbent and protective clothing were placed in a drum and sent to a hazardous waste site.

Numbers in Parentheses Represent Reports For The Same Period In Fiscal Year 1986

Month	Total # of Incidents Reported	Substance Type			Mode					
		Petroleum Product	Agri. Chemical	Other Chemicals and Substances	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
Oct	79	45	0	54	53	0	18	2	0	6
Nov	24	12	3	9	17	0	5	1	0	1
Dec	43 (23)	36 (14)	1 (2)	6 (7)	24 (14)	1 (0)	14 (4)	1 (1)	0 (1)	3 (3)

Total # of Incidents Per						
Field Office	1	2	3	4	5	6
This Period	7	3	3	4	17	9

Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Rolscreen Co., Pella (5)	Wastewater	Pretreatment	Order/Penalty	12/17/86
Collis, Inc. Clinton (6)	Wastewater	Effluent Violations	Order/Penalty	12/16/86
1st Pleasant View Sub Clarion (2)	Drinking Water	Failure to monitor - bacteria	Order/Penalty	12/31/86
Redwood Resort Ruthven (3)	Drinking Water	Failure to monitor - bacteria/nitrate	Order/Penalty	12/31/86
OK Lounge Marion (1)	Drinking Water	Failure to monitor - bacteria; operation without a permit	Order/Penalty	12/31/86

Summary of Administrative Penalties

The following administrative penalties are due:

<u>NAME</u>	<u>AMOUNT</u>	<u>DUE DATE</u>
*Otter Creek Station	\$ 189	5-09-86
*New Shack Tavern	230	5-13-86
4-Way Tap	62	8-01-86
*Kit Kat Club	62	8-02-86
Shelter Shield	1,000	12-03-86
Lawrence Payne	700	12-05-86
Country Corner Cafe	400	12-21-86
Cedar Hills Apartments	1,000	12-29-86
Rayburn Mobile Home Court	212	12-29-86
K & K Truckstop	212	12-29-86
Rice Lake Water	212	12-31-86
Indian Creek Country Club	162	1-02-87
*Woodland Park	1,000	1-11-87
Waddell Bros. Metal	600	1-20-87
Jacobsma Gilts, Inc.	1,000	1-31-87
Chico's Supper Club	863	2-10-87
Rolscreen Company	1,000	2-17-87
Collis, Inc.	1,000	2-17-87
1st Pleasant View Subdivision	224	----
Redwood Resort	289	----
OK Lounge	448	----

The following administrative penalties have been appealed:

<u>NAME</u>	<u>AMOUNT</u>
Iowa Power and Light	\$1,000
*Finlan Landfill	1,000
Besch/Ralston	500
Iowa Public Service	1,000
Kula and Boge	1,000
McConnell; Yoder Feed	1,000
Handi-Klasp, Inc.	1,000
NW States Cement	1,000
Mahaska County SLF	600

*Referred to the Attorney General

The following administrative penalties were paid in December:

<u>NAME</u>	<u>AMOUNT</u>
Broken Arrow Lounge	\$ 186
Boatels, Inc.	1,000
Stratford Grain and Supply	600
Des Moines YMCA	162
Lehigh Portland Cement	1,000
Savage Sanitary Sewer Dist.	500
Story Construction Co.	600
Morris Inn Steak House	62

The table below summarizes administrative penalty assessments through 1986. The penalty rules became effective in September 1985 and the first penalty order was issued in October 1985. Penalties are not due until at least 60 days after an order is issued, so collections did not start until approximately January 1, 1986.

The first column of this table is a rough breakdown of the environmental program and violation types for which penalties have been assessed. The second column states the dollar amounts collected during FY 86, and the number of cases in parentheses. The third and fourth columns state similar data for the first and second quarters of FY 87, respectively. The fifth column states similar data for cases still pending as of January 1, 1987 (penalties assessed but not yet due, appealed, or delinquent).

<u>VIOLATION TYPE</u>	<u>FY 86</u>	<u>FY 87 - 1st</u>	<u>FY 87 - 2nd</u>	<u>Pending</u>	<u>Totals</u>
WN Discharge	\$ 1,400 (2)	\$ 800 (1)	\$3,600 (5)	\$ 6,400 (7)	\$12,200 (15)
WN Monitoring	815 (3)	400 (1)	710 (2)	---	1,925 (6)
SW Permit	1,500 (4)	1,600 (2)	2,100 (4)	1,600 (2)	6,800 (12)
SW Open Dumping	1,250 (2)	2,000 (5)	----	2,200 (3)	5,450 (10)
Air Permit	2,600 (3)	200 (1)	700 (1)	4,000 (4)	7,500 (9)
Air Open Burning	625 (2)	1,600 (2)	700 (2)	600 (1)	3,525 (7)
WS Monitoring	1,859 (20)	1,570 (18)	737 (8)	3,953 (12)	8,119 (58)
WS Permit	598 (2)	---	---	---	598 (2)
HC Notice	---	---	600 (1)	---	600 (1)
TOTALS	\$10,647 (38)	\$8,170 (30)	\$9,147 (23)	\$18,753 (29)	\$46,717 (120)

Department of Natural Resources
Environmental Protection Commission
Contested Cases
January 1, 1987

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
10/02/86	Long Branch Maint. Corp.	Administrative Order	WS	Murphy	Hearing held 12/10/86, proposed decision 12-23-86.
10/08/86	City of Newell	NPDES Permit	WW	Hansen	Hearing held 12-17-86, appeal withdrawn.
10/22/86	Yoder Foods, Inc. et al	Administrative Order	WM/SW	Kennedy	Hearing held 12-16-86.
10/27/86	Union County/Mittsstock	Permit Issuance	FP	Clark	Remanded by District Court.
10/28/86	Lemon Municipal Utilities	Administrative Order	WW	Hansen	Negotiating before setting hearing.
10/29/86	Handi-K Corp. Company, Inc.	Administrative Order	AQ/WW SW	Landa	Hearing set for 2-20-87.
11/04/86	Story Construction Co.	Administrative Order	AQ	Landa	Settled.
11/05/86	Nebraska Co. SLP	Administrative Order	SW	Kennedy	Hearing set for 1-13-87.
11/14/86	Gale Conrad	Permit Condition	FP	Clark	New Case.
11/18/86	Northwestern States	Administrative Order	WW	Landa	Hearing set for 2-03-87.
12-03-86	City of Kauka	Administrative Order	WS	Hansen	Hearing set for 2-11-87.
12-04-86	City of Sully	Administrative Order	WS	Hansen	Hearing set for 2-10-87.
12-04-86	Culligan Water Conditioning Co.	Permit Denial	WW	Hansen	Hearing set for 2-04-87.
12/11/86	Eloise Reese	Permit Condition	FP	Clark	New Case.
12/18/86	Fawn Engineering Corp.	Permit Denial	SW	Landa	New Case.
12/24/86	Francis Heberlein	Administrative Order	FP	Clark	New Case.
10-26-85 1-20-85	Frit Industries	Administrative Order Hazardous Waste Registry	HW	Landa	Settlement close.
9-14-84	Belmond, et. al.	Administrative Order	HC	Landa	Proposed decision 11-4-85; appealed.
10-17-85	City of Bevington	Administrative Order	WW	Hansen	Hearing continued.
10-23-85	Farmers Coop. Elevator Company	Permit Condition	WW	Hansen	Hearing continued.
1-23-86	Oswein Soil Service	Administrative Order	WW	Landa	Hearing continued pending evaluation of test results.
3-20-86	Stan Larsen	Varience Denial	FP	Clark	Proposed decision 6-27-86; affirmed 12-16-86.
4-07-86	Iowa Power and Light	Administrative Order	Air	Landa	Hearing continued.
3-21-86	Besch and Reiston	Administrative Order	SW	Landa	Settlement close; Removal begun.
6-10-86	City of Hospers	Water Supply Permit	WS	Hansen	Dismissed, appeal withdrawn.
6-11-86	Reinholdt, Walter	Water Use Permit	WR	Clark	Proposed decision 9-24-86, affirmed 12-16-86.
6-12-86	NDM - Clinton	Administrative Order	Air	Landa	Hearing continued. Consent Order proposed.
7-30-86	IBP - Columbus Junction	NPDES Permit	WW	Hansen	Hearing set for 1-14-86.
9-10-86	Farmer's Mutual Coop	Administrative Order	WM/SW	Landa	Negotiating before filing.
9-10-86	Kula and Boge	Administrative Order	SW	Landa	Negotiating before filing. Removal begin.

Discussion followed regarding spills listed on the Hazardous Substance/Emergency Response Report. This includes leaks in both underground and above-ground storage facilities. Al Stokes stated that more spills are being reported due to better publicity for reporting such instances.

The Commissioners stated that they would like to see the percentage of underground tank leaks reported separately in the future.

CONTRACT FOR PRETREATMENT CIRCUIT RIDER

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Department requests approval to enter into a contract with Kirkwood Community College for up to \$50,000 to assist municipalities and industries throughout the state in solving pretreatment implementation and compliance problems. The contract will fund one half-time position for a two-year period. This person will travel throughout the state providing on-site technical assistance to facilities the department has identified as experiencing pretreatment compliance problems. The objective is to have the facility achieve compliance as quickly as possible. This person will also organize several workshops for municipalities and industries affected by pretreatment regulations.

Motion was made by Linda Appelgate to approve the Pretreatment Program Circuit Rider Contract with Kirkwood Community College for \$50,000. Seconded by Catherine Dunn. Motion carried unanimously.

RULE ADOPTION--567 CHAPTER 2

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The Commission is requested to adopt by reference the enclosed Chapter 2, Public and Confidential Information. The Commission approved a notice of intended action on these rules in October. The comment period expired on December 9. There were no comments to the proposed rules, except from department personnel. The only change from the proposed rule was to add one more category of confidential information, to conform to a change in state law. See 2.4(1)g. In adopting the rules, the Commission will also rescind 4.1 to 4.4 of the existing rules.

Adopt a new Chapter 2, as follows:

Chapter 2 Public and Confidential Information

561--2.1(22, 93, 107, 455B) Policy on disclosure of records.

2.1(1) General. The department will make the fullest possible disclosure of records to the public consistent with the legal rights of individuals and the department to confidential treatment of certain information described in this rule, and with reasonable administration practice and cost.

2.1(2) Public examination. Except as provided in rule 2.4 (22, 93, 455B), all files, records, documents and other materials within the department's

possession are available for public examination and copying at the department's headquarters and field offices during normal business hours. Examination and copying shall be done at a place provided by the custodian of the materials and shall be under the supervision of a designated department employee. Photocopying will be done by a department employee. Fees for supervision, assistance, and copying must be paid at the time in accordance with subrule 2.1(4).

2.1(3) Requests for public information. Requests for information may be made to the records center, or any other division dealing with the subject matter of the request, Department of Natural Resources, Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034 (phone 515/281-8895). There is no prescribed form for request for information. Request should be sufficiently specific to permit easy identification of the information. Simple requests may be made orally. Detailed requests should be in writing. Requests which would require the department staff to collect information from different sources, conduct research or detailed review of files or other materials, or present other unreasonable burdens on staff will be responded to by informing the requestor of their right to examine and copy pursuant to subrule 2.1(2). Simple requests such as for a copy of a specific dated document, or an entire or time specific portion of a file, will be honored. Fees in accordance with subrule 2.1(4) must be prepaid.

This rule shall not apply to a request that can be handled by supplying the requesting party an agency brochure, report, pamphlet, map, press package, news release, form, or other printed material which the agency routinely makes available to the public at no charge or for a charge as established by the agency and approved by the superintendent of printing.

2.1(4) Fees. Over-the-counter services. Anyone making a request for reproduction of the department's records will prepay for services at the following rates, all of which charges include Iowa sales tax:

a. Photocopies (direct copies on 8-1/2" x 11", 8-1/2" x 14", or 11" x 17" paper) - 40 cents per page.

b. Paper copy from microfilm record - 50 cents per page.

c. Microfiche copy from microfilm records - \$1 per fiche.

d. The actual reproduction cost will be charged for any blueprint, picture, oral tape or any other work product not subject to photocopying.

e. Computer stored information:

(1) Tape files - \$100 per file, copied only to 9-track tape with standard IBM labels.

(2) 3 UP gummed mailing labels and 4 UP Cheshire labels 30 cents per 1,000 records read, and \$10 per 1,000 labels written. A minimum charge of \$15 or actual cost will be assessed, whichever is greater. Programming time over ten minutes will be charged at the rate of \$25 per hour or any portion of an hour.

2.1(5) Waiver of charges.

a. Charges for examination, copies or other work products requested in writing by a person in a capacity as representative of another governmental entity or where copies are provided under provisions of a written agency contract may be waived.

b. Charges for examination, copies or other work products requested by persons other than governmental entity employees may also be waived at the discretion of the department for small requests.

561-2.2(93, 107, 455B) Public notices - mailing lists.

2.2(1) The department maintains mailing lists of persons who wish to receive information about the department's activities:

a. By environmental categories, conservation categories, recreation categories, and energy categories;

b. By general information categories, including newsletters and commission agendas; and

c. By geographic categories.

2.2(2) A list of current mailing list categories may be obtained by mail from the Records Center, Department of Natural Resources, 900 East Grand Avenue, Des Moines, Iowa 50319-0034, or by telephoning 515/281-8895 or 281-5145.

2.2(3) In addition to the preceding, the department maintains a mailing list of contractors who have filed an "Architect-Engineer and Related Services Questionnaire" (Standard Form 254), or similar evidence of qualifications with the department.

2.2(4) Periodically, the department will contact individuals on its mailing list to determine if continued receipt of information is desired. Persons who fail to respond to such contacts may be removed from the lists.

2.2(5) There is maintained by the department a toll free energy hotline to supply free energy information to the public. The toll free number is 1-800-532-1114 and the number in Des Moines is 281-7017.

561--2.3(17A, 22, 455B) Disclosure of information on violations and alleged violations.

2.3(1) Scope. This subrule applies to disclosure of information on matters which involve or potentially involve a contested case under Iowa Code chapter 455B, governed by 900*--Chapter 7.

2.3(2) Policy.

a. Only the director, deputy director, division administrator, bureau chief, or compliance officer of the department should discuss matters to which this rule applies with persons other than parties in a pending case. Other employees of the department shall refer inquiries by persons other than parties to the above employees. The discussion by the above authorized employees should be limited to:

(1) Quoting from the preliminary notice, notice of violation, order, or notice of hearing as the case may be.

(2) Stating that files of the department are available for public inspection in accordance with Chapter 2 of these rules and the Iowa Code.

b. The agency members and the presiding officer who may decide the case shall, in addition to complying with rule 7.9 (455B), limit comment to persons other than parties on matters to which this rule applies to the time, place, and date of the hearing if one is scheduled.

2.3(3) Listing of matters within this rule. The director shall periodically inform appropriate commission members, the presiding officer, and other employees of the department of matters which are within this rule. Information in such system of communication shall be available for public inspection in accordance with 2.1. -

2.3(4) Disclosure after final determination. After a matter within the scope of this rule has been finally determined by the appropriate agency under this chapter or by a court, all employees of the department may discuss the matter with persons other than parties.

561--2.4(22, 93, 455B) Confidentiality of information.

2.4(1) Information classified as confidential or exempted from disclosure by the Iowa Code shall not be disclosed or made available for public inspection. Examples of such information with appropriate references to the Iowa Code are:

a. Criminal history or prior misconduct of an applicant for water or wastewater operator certification, information leading to operator certification examination contents, and certain information relating to examination results, Iowa Code subsection 455B.213(3);

b. Records which are the work product of an attorney for or with the department which are related to litigation or a claim by or against the department, Iowa Code subsection 22.7(4);

c. Peace officer investigative reports prepared by law enforcement officers, unless disclosure is authorized or required by the Iowa Code subsection 22.7(5);

d. Personal information in confidential personnel files, Iowa Code subsection 22.7(11);

e. Information entitled to "business confidentiality." This term generally describes matters within the scope of Iowa Code sections 22.7(3), 455B.137, 455B.179, 455B.416(3), and 93.7(3) and includes the concept of trade secrecy and related legal concepts which give or may give a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information. Such information will not be considered confidential except in accordance with subrule 2.4(3).

f. Protected ecologically sensitive sites and information pursuant to Iowa Code section subrule 22.7(22).

g. Communications or complaints by persons outside of government pursuant to Iowa Code subsection 22.7(18).

2.4(2) Notwithstanding any other provision, the following information will not be considered confidential by the department:

a. Emission data;

b. Analytical results of monitoring of public water supply systems;

c. Name and address of any permit applicant;

d. NPDES permits, applications (including any information required by NPDES application forms), and effluent data.

2.4(3) Processing of business confidentiality claims.

a. Applicability/availability. Businesses which provide information to the department in applications, reports or otherwise in recorded form, or from or about which information is obtained and recorded by the department, may request that information not be disclosed to others for reasons of business confidentiality. Until such time as a request for confidentiality is received by the department, all information not within subrule 2.4(2) will be available to the public pursuant to rule 2.1(455B, 22, 93, 107). If a claim is received after the information itself is received, the department will make such efforts as are administratively practicable to associate the claim with all copies of the previously received information. However, the department cannot assure that such efforts will be effective, in light of the possibility of prior disclosure or dissemination of the information beyond the department's reasonable control.

b. Form. A business which submits information to the department may assert a business confidentiality claim in the manner prescribed in the application or instruction, if any, otherwise by placing on or attaching to the information, at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." When only a portion of the information is claimed to be confidential, only that portion shall be deleted from the application, report, or other recorded submission, with appropriate reference to a separate claim for business confidentiality, which separate

claim shall be submitted as specified above. If a request not to disclose information is filed with the department, the party shall file together with the document a second copy of the document from which has been deleted the information for which such party wishes to claim confidential treatment. The business shall conspicuously indicate on the face of the original document, that it is confidential information and shall file a claim for confidential status in accordance with the provisions of 2.4(3)c.

A business which has reason to believe that the department has received information which the business asserts to be confidential, may request that such information, described with reasonable specificity, be maintained as confidential, in the same manner as specified above.

c. Contents of claim. All claims for confidentiality must be substantiated with the following information:

(1) A statement of all measures the business has taken to protect the confidentiality of the information, and a statement of intent to continue to take such measures;

(2) Practices and policies of other businesses, if known, regarding confidentiality of similar information;

(3) A statement that the information is not, and has not been, reasonably attainable without the consent of the business by other persons other than government bodies by use of legitimate means;

(4) A statement demonstrating that disclosure of the information is likely to cause substantial harm to the business's competitive position;

(5) A reference to any other determinations of confidential status of the information or similar information.

d. Initial action by department. All claims will be reviewed within ten (10) days of receipt for completeness and applicability of subrule 2.4(2). If the claim does not include the substantiation required by 2.4(3)"c," or if the claim relates to information within 2.4(2), the business making the claim will be so notified by certified mail. If the substantiation, or comment regarding the inapplicability of 2.4(2), is not received by the department within ten (10) days of the date on the return receipt, the department will place the information in the public file. Otherwise, all information claimed to be confidential will be treated as such by the department until further notice. A timely response from the notice under this paragraph will be ruled on by the department within ten (10) days, based on the applicability of 2.4(2) or compliance with 2.4(3)"c," as appropriate.

e. Initiation of official determination. All claims not rejected under 2.4(3)"c" shall receive an official determination when a request for disclosure covering such information is received by the department or when the department deems it advisable to make a determination because a request for disclosure is likely to be received or because of administrative burdens in maintaining the information confidential. The procedures and criteria below shall be followed.

f. Substantive criteria for use in confidentiality determinations. Determinations shall hold that business information is entitled to confidential treatment for the benefit of a particular person if:

(1) The business has taken and intends to continue to take reasonable measures to protect the confidentiality of the information;

(2) The information is not readily obtainable by others by legitimate means;

(3) The claim is not unreasonable in view of the nature of the information, the interests, and normal practices of the business, and the practices of other businesses;

(4) No statute or rule specifically requires disclosure of the information; and

(5) There is a substantial likelihood that disclosure of the information would cause substantial harm to the competitive position of the business.

Prior determinations by the courts, the department or other agencies on the information or similar information shall be given due consideration and effect.

g. Preliminary determination--opportunity for comment. The department shall transmit its preliminary determination regarding a claim for business confidentiality to the claimant by certified mail, notifying the claimant of the opportunity to provide comments within ten (10) days subject to reasonable extension upon written request, and that failure to comment will be construed to indicate agreement with the preliminary determination. If the determination is in response to a request for disclosure, the person requesting disclosure shall be sent a similar notice in the same manner within ten (10) days of the request.

h. Final determination. A final decision shall be issued within ten (10) days after the close of the comment period to the preliminary determination. If any substantial comments are received, the final decision shall be made by the director or designee. If no substantial comments are received, the claimant and the person requesting disclosure, if any, shall be notified that the preliminary determination is the final decision.

i. All procedures within this rule shall not be considered contested case proceedings as provided in Iowa Code chapter 17A.

2.4(4) Administrative control of confidential information.

a. Information for which a request for confidential treatment has been received and not disposed of adversely to the claimant shall be maintained in a separate file folder marked in red "Confidential," and the file in which such information would normally be kept if not held confidential shall contain a record of confidential material having been removed.

b. All confidential files shall be maintained in the central office in a secure place. No copies of confidential information shall be made for any person except for a field office administrator of the department, who shall be responsible for maintaining the copy confidential, or as specified in subrule 2.4(5).

c. Department employees may have access to confidential files which are necessary for the performance of their employment responsibilities during normal working hours, and must record their names and the date of access. An employee may not disclose confidential information to any person outside of the department and shall take appropriate measures to safeguard such information and to protect against its improper disclosure.

2.4(5) Special considerations.

a. Disclosure to other agencies or contractors. The department may disclose confidential information to other governmental agencies which are legally bound to maintain the confidentiality of the information, and to contractors of the department which are bound by their contract to maintain the confidentiality of the information, provided that the department gives written notice to the affected business of its intent to disclose at least ten (10) days prior to such disclosure. However, no notice shall be required when the department furnishes such information to another agency to perform a function on behalf of the department, including but not limited to:

(1) Disclosure to the federal or state department of justice, a county attorney, or the United States Environmental Protection Agency for purposes of investigation or prosecution of civil or criminal violations of law related to department activities;

(2) Disclosure to the state department of justice for purposes of representing the state in any matter;

(3) Disclosure to any agency for purposes of performing a department function under any interagency agreement.

b. Court-ordered disclosure. The department may disclose any business information in the manner and to the extent ordered by a court having jurisdiction over it. Unless prohibited by such order, the department shall give as much advance notice to the affected business as is reasonable, if the business does not have actual notice.

c. Disclosure with consent of business. The department may disclose any business information to any person with the business's written consent.

2.4(6) Ecologically sensitive sites and information. Department employees may have access to confidential ecologically sensitive information pursuant to Iowa Code section 22.7(22) and 111B.14 which are necessary for the performance of their employment responsibilities during normal working hours and must record their names and date of access in the file. Department employees are prohibited from making any private or personal use of any confidential ecologically sensitive information obtained.

These rules are intended to implement Iowa Code chapters 17A, 22, 93, 107, and 455B.

Adopted this ____ day of
January, 1987

Larry J. Wilson, Director

Discussion followed regarding drafts coming before the Commission, releasing public information to the public, subcommittee meetings being open to the public, and public records.

Motion was made by Charlotte Mohr to approve Rule Adoption--567 Chapter 2, Public and Confidential Information. Seconded by Linda Appelgate. Motion carried unanimously.

PUBLIC PARTICIPATION

Chairman Schlutz announced public participation at 10:30 a.m., no one present requested to speak.

RULE ADOPTION--567 CHAPTER 3

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The Commission is requested to adopt by reference the enclosed Chapter 3, Submission of Information and Complaints--Investigations. The Commission approved a notice of intended action on these rules in October. The comment period expired on December 9. There were no comments to the proposed rules except from department personnel. Changes made from the proposed rules include: limiting mandatory investigations in paragraph 3.3(1)"b"(1) to those required by statute; in paragraph 3.3(1)"b"(2), narrowing the Department's duty to notify complainants of discretionary investigation results to cases of written complaints; and modifying paragraph 3.3(1)"c" to conform to confidentiality requirements in Iowa Code subsection 22.7(18). In adopting these rules, the Commission will also rescind Water, Air and Waste Management Commission rule 4.5 on this same subject.

CHAPTER 3
SUBMISSION OF INFORMATION AND
COMPLAINTS--INVESTIGATIONS

561--3.1(17A, 455A) Scope. This chapter provides general guidance concerning the submission of information; supplies special telephone numbers for reporting certain types of information; and sets forth specific procedures for the submission and investigation of complaints.

561--3.2(17A, 455A) Submission of information.

3.2(1) Submission of information generally. Submissions should be made directly to the division of the department for whose use the materials are intended. Any person who submits materials should enclose a cover letter which states clearly and concisely the use for which they are intended. Although the department will attempt to return unsolicited information if requested, it cannot guarantee return.

3.2(2) Exceptions. When information is submitted pursuant to another provision of these rules, e.g., a complaint, a request for confidentiality, a petition for rulemaking, a petition for declaratory ruling, contested cases, or when the submission is required by departmental statute or rule, the material should be submitted in accordance with any applicable instructions contained in such statute or rule.

3.2(3) Hunting, fishing, and trapping violations. Suspected violations of hunting, fishing, and trapping laws may be reported at any time by dialing toll free 1-800-532-2020. Callers remain anonymous.

3.2(4) Emergency incident reports. The twenty-four (24) hour emergency telephone number for the reporting of hazardous conditions, radiation incidents, and air pollution emergency episodes is 515/281-8694. During nonbusiness hours this number is answered by staff of the department of public safety, who will obtain the caller's name, telephone number, and information relating to the incident. This information will be forwarded to staff of the department who will contact the caller.

561--3.3(17A, 455A) Submission of complaints; investigations.

3.3(1) General complaints. Complaints other than those against department employees must be submitted, and will be investigated, as follows:

a. Submission requirements. Complaints concerning alleged violations of departmental statutes or rules should be submitted in writing to the appropriate field office, district office, or the central office (see rule 1.4 (17A, 71GA, chapter 1245)) and the nature of the complaint must be summarized in a concise manner. If the complaint is in the form of a petition, the signature, printed name and address of each petitioner should be included in addition to a concise summary of the complaint; and one representative also

must be specified for the purpose of receiving any communication from the department on behalf of all petitioners.

b. Investigation procedure.

(1) Mandatory investigations. The department shall investigate the following types of complaints: alleged unauthorized depleting uses of water pursuant to Iowa Code section 455B.274; alleged violations of air or water pollution statutes, rules or permits when requested by any state agency, political subdivision, local board of health, or twenty-five (25) residents of the state pursuant to Iowa Code subsections 455B.134(8) and 455B.174(1). The appropriate office shall conduct an investigation and notify the complainant of the results of the investigation.

(2) Discretionary investigations. Complaints not described in 3.3(1)"b"(1) may be investigated by the department if it appears that an investigation is needed to ensure compliance with applicable departmental statutes or rules. In the case of written complaints, the appropriate office shall notify the complainant of the results of the investigation or of its decision not to conduct an investigation, unless the complaint is anonymous.

c. Confidentiality. In some cases, names of complainants may be kept confidential by the department pursuant to Iowa Code subsection 22.7(18) (see subrule 2.4(1)).

3.3(2) Complaints concerning departmental employees.

a. Submission requirements. A party having a complaint regarding the performance of an agency employee is encouraged to discuss the matter with the employee's supervisor. The party also may request the director to investigate the matter by submitting a complaint in writing to the Director, Iowa Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319. The complaint must be made within three (3) months of the incident except for good cause. The complaint must contain the name of the employee; a description of the incident; the names and addresses of possible witnesses; and the signature, address, and telephone number of the party submitting the complaint.

b. Investigation procedure. For the purpose of this paragraph, "director" means the director or the director's designee. Upon receipt of the written complaint, the director shall acknowledge the complaint in writing. If the complaint raises issues which could result in disciplinary action, the director will investigate the complaint. The investigation may include an informal, confidential hearing by the director for the purpose of ascertaining more clearly all relevant aspects of the complaint. No subpoenas or sworn testimony will be taken. The employee, the complainant, and other parties and department staff as invited by the director, may participate in the hearing. Counsel for the employee and the complainant may participate in the hearing. Informal cross-examination of all parties will be allowed. The hearing shall be tape recorded.

At the conclusion of the investigation, the director will prepare a written response to the complainant; except that the response shall not violate the employee's rights to confidentiality under Iowa Code section 22.7, applicable collective bargaining agreements, or any other applicable statutes or administrative rules.

The written response of the director shall be the final agency action regarding any written complaints received under this subrule. Nothing in this procedure shall be construed to prevent a withdrawal of the complaint based on an informal settlement between the department and the complainant.

These rules are intended to implement Iowa Code chapter 17A and 1986 Iowa Acts, chapter 1245 (455A).

January 7, 1987

Larry J. Wilson, Director

Motion was made by Linda Appelgate to approve Rule Adoption--567 Chapter 3, Submission of Information and Complaints/Investigations. Seconded by Catherine Dunn. Motion carried unanimously.

RULE NOTICE CHAPTER 5

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

On November 13, 1986, the Commission approved a Notice of Intended Action to adopt a new Chapter 5, Rulemaking Procedures. After we filed these, the Administrative Rules Coordinator requested that we defer acting on these rules and adopt "uniform rules" relating to one aspect of rulemaking. Uniform rules are rules that a Governor's task force have been working on to provide uniformity among agencies on procedural matters such as rulemaking, declaratory rulings, and contested cases. The task force has completed portions of these rules, but has not completed the rulemaking rules. We ask that the Commission withdraw the current Notice of Intended Action on this subject. The current rules of the Water, Air and Waste Management Commission will govern for now.

Motion was made by Catherine Dunn to withdraw the Notice of Intended Action--Chapter 5, Rulemaking Procedures. Seconded by Clark Yeager. Motion carried unanimously.

RULE NOTICE CHAPTER 6

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

On November 13, 1986, the Commission approved a Notice of Intended Action to adopt a new Chapter 6, Declaratory Rulings. After we filed this Notice, the Administrative Rules Coordinator asked that we adopt "uniform rules" instead (see previous item). We concur that the uniform rules should be adopted by reference in that they are not substantially different from those we proposed, with two exceptions. First, the uniform rules require that a ruling be issued within 30 days unless the petitioner allows a longer period. We feel the Director should be allowed to extend this period where necessary and upon written notice to the petitioner within 30 days. Second, the uniform rules, in setting the 30-day response period, do not seem to recognize the reality that the Commission is the final decision-makers in many of these cases and more time, along with a procedure for its review, is necessary. We ask that you approve the attached rule for Notice of Intended Action.

Adopt a new chapter 561--6(17A), as follows:

CHAPTER 6
DECLARATORY RULINGS

The uniform rules are adopted by reference except as set forth in this rule. The agency name is the Iowa Department of Natural Resources. This chapter applies to matters within the jurisdiction of the director (IAC Parts 561 and 565), the environmental protection commission (IAC Part 567), and the natural resource commission (IAC Part 571).

Rule 6.4(17A) is altered by substituting the following for the second unnumbered paragraph.

The director shall either issue a ruling or decline to issue a ruling within thirty (30) days after receipt of the petition or receipt of additional information requested, unless a longer period of time is necessary due to the complexity of the issues or the number of pending petitions. If a longer period of time is needed, the director shall notify the petitioner within thirty (30) days. The petitioner shall be notified by certified mail of the director's action. If the issue is within the rulemaking authority of one of the department's commissions, the ruling or declination, along with the petition and briefs, also shall be mailed to the commission members.

A ruling, including a refusal to rule, issued by the director is final unless the issue is within the rulemaking authority of one of the department's commissions in which case the ruling or refusal is final unless appealed to the commission within ten days of receipt by the petitioner or reviewed by the commission on its own motion. On appeal or review, the commission may:

- a. Approve the director's ruling, in which case the ruling becomes the final declaratory ruling of the department, or
- b. Reverse or modify the declaratory ruling, in which case the modified ruling becomes the final declaratory ruling of the department, or
- c. Request additional information from the petitioner, or
- d. Decline to issue a ruling, as specified in 6.5(3).

The commission's ruling or refusal to rule shall be made within a reasonable time and shall be sent by certified mail to the petitioner upon issuance.

These rules are intended to implement Iowa Code section 17A.9.

January 7, 1986

Larry J. Wilson, Director

Motion was made by Linda Appelgate to approve Notice of Intended Action--Chapter 6, Declaratory Rulings. Seconded by Catherine Dunn. Motion carried unanimously.

REFERRAL TO THE ATTORNEY GENERAL

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The Department requests approval to refer Tri-County Feeder Pig Association to the Attorney General for appropriate legal action for allegedly violating permit and rule requirements prohibiting discharge of pollutants to waters of the state. A litigation report has been sent to the Commissioners and is to be maintained as confidential, pursuant to Iowa Code Section 22.7(4).

James Combs briefed the Commission stating that there had been problems with discharge of waste into the streams, primarily a run-off from sprayed irrigation. Mr. Combs noted that there were some representatives from Tri-county Feeder Pig Association present to address the Commission.

Mel Struthers, attorney from Cedar Rapids representing Tri-County Feeder Pig Association introduced William Merrick, owner of the company; Mr. Bryant who is Mr. Merrick's assistant; Dave Elgin, Consulting Engineer with Shive-Hattery; and Bob Story, operator of the confinement.

Mr. Struthers stated that most of the violations mentioned in Mr. Combs' presentation referred to a time prior to Mr. Merrick's ownership. He stated that the operation has not had a complaint on a lagoon overflow since the permit was last issued and since an examination was last made by Ms. Turkle. The instance referred to in October is the last one and was a matter of irrigation and run-off in a time when there was excessive rainfall. Mr. Struthers stated that he felt the Department could handle the matter without referral to the Attorney General's office.

Mr. Dave Elgin stated that the previous problem experienced at the facility was a lagoon operation problem where they simply were not paying attention to maintaining adequate free board. He made recommendations on changing their operational techniques and they made several improvements with the lagoon operation in terms of diverting surface water from the lagoon area. The company has maintained that operational mode for the last year and a half without any problems. The operational problem which occurred with saturated ground and run-off can be avoided with some more diligence and awareness on the part of the operator. Mr. Elgin state that he has advised Mr. Story to walk around the perimeter to be able to determine when the ground is saturated as opposed to the visual observation. The operational problem can be corrected and it is not a problem that is going to continue.

William Merrick addressed the Commission giving a history of his involvement and ownership of the operation. He further explained previous violations and problems with previous owners. He stated that the company has no intentions of polluting and that they have been cleaning up the unit.

Bob Story explained how he operates the confinement.

Action was made by Keith Uhl for referral to the Attorney General's Office. Seconded by Gary Priebe.

Gary Priebe stated that he has a problem with going back and looking at previous ownership and feels that the new owner is making a concerted effort to alleviate the problems.

Discussion followed regarding options other than referral; unintentional violations and allowing people a free dump; heavy rain factor; whether or not run-off was more than one day; and follow-up on these complaints.

Chairman Schlutz called for a vote on Keith Uhl's motion. Motion failed unanimously.

Motion was made by Linda Appelgate that the department issue an Administrative Order without penalty. Seconded by Catherine Dunn. Motion carried unanimously.

James Combs reported that several months ago a request to refer a public water supply by the name of 4-Way Tap was brought before the Commission. Mr. Combs stated that there was a question at that time as to whether it actually was a public water supply and the Commission tabled the referral until it could be further investigated. Since then, it has been determined that it is not a public water supply and staff recommends it be removed from the table and the issue be dropped.

Motion was made by Donna Hammitt to remove the referral for 4-Way Tap from the table and to drop the matter. Seconded by Clark Yeager. Motion carried unanimously.

Mr. Combs updated the Commission on Woodland Park stating that the Attorney General's Office is proceeding along the civil penalty portion and there has already been one order made. They have talked to the district prosecutor of the Attorney General's Office and with the local county attorney. The county attorney has agreed to handle the case. They are still investigating to determine whether or not they want to proceed with criminal action.

Discussion followed regarding whether or not a new referral to the Attorney General's Office would need to be made against Woodland Park.

PROPOSED CONTESTED CASE DECISION -- LONG BRANCH MAINTENANCE CORP.

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

On September 9, 1986, the Director issued an administrative order to the Long Branch Maintenance Corp., operator of the public water supply for the Diamondhead Lake Subdivision in Guthrie County. The company appealed the order, and a hearing was held on December 10, 1986. The proposed decision of the hearing officer modifying and affirming the order is attached.

The company may appeal this proposed decision to the Commission. In the absence of an appeal, the Commission may decide on its own motion to review the decision. If there is no appeal or review of the proposed decision, it automatically becomes the final decision of the Commission after 30 days.

The Commission took no action on this. This has the effect of upholding the hearing officer's decision unless there is an appeal.

LEGISLATION PACKAGE (CONTINUED)

Motion was made by Clark Yeager to remove the legislation package item from the table. Seconded by Charlotte Mohr. Motion carried unanimously.

Bob Fagerland explained the revisions made to the proposed legislation since the morning session.

The Commission decided that the word "person" should be added to Line 2 prior to the word "private." The word "persons" should be added on Line 20 after the word prohibits. These changes would remove any exemptions to this bill.

Motion was made by Linda Appelgate to approve the legislative package with the revisions made to the solid waste dumping bill. Seconded by Donna Hammitt. Motion carried unanimously.

Proposed Legislation - Groundwater Protection

James Combs discussed changes that had been made when meeting with the legislative subcommittee. The Commission reviewed and discussed the proposed legislation and suggested a number of changes be made. One of the major changes was regarding the Groundwater Nondegradation Goal. The following changes were made: On Page 2, Line 25, change the words "maintain all groundwater in an uncontaminated state" to read "prevent deterioration of the groundwater of the state" and on Line 26, change the words "that state" to read "the precontaminated quality." Lines 32 and 33 should be deleted.

A number of other changes and language clean-up was proposed. James Combs and his staff will make the appropriate changes and a copy of the amended legislation will be sent to each Commissioner.

Motion was made by Catherine Dunn to approve this document based on the amendments made today. Seconded by Wayne Gieselman. Motion carried unanimously.

HANDI-KLASP COMPANY, INC. AND ROYAL PRODUCTS COMPANY, INC. -- APPLICATION TO TRANSFER HEARING

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

On October 3, 1986, the Department issued to Handi-Klasp Company, Inc. and Royal Products Company, Inc. an administrative order. The order was appealed, a Notice of Hearing was issued and pleadings have been filed. Pursuant to subrule 900--7.11(1)(IAC), a hearing officer shall preside at contested case hearings unless on motion of a party, or on its own motion, the Commission orders that the hearing be conducted before the Commission.

Handi-Klasp and Royal Products have filed a motion requesting that the Commission preside at its contested case hearing. The Department has filed a resistance to this motion.

James Combs briefed the Commission on this item. He stated that Mr. Stewart Lund who is representing Handi-Klasp, Inc. is present to present

his case for the transfer. Mr. Combs then asked Mike Murphy to provide the department's issues from a legal standpoint.

Mr. Murphy stated that the Commission does have the discretion to conduct the hearing if they so choose. He acknowledged that the staff's position is that this is not an unusual appeal, that the normal course of action is to let an administrative hearing officer conduct that portion of the proceedings, and that the Commission is the final decision-maker in any event. The Department has filed resistance to Mr. Lund's petition in this matter.

Stewart Lund, attorney from Webster City representing Handi-Klasp Company, Inc. and Royal Products Company, Inc., made the following statement:

These corporations were issued three citations from Director Larry Wilson for not having obtained licenses for two furnaces that were burning wood and cobs, and for a leaching in the area that could reach from our on-site dump into the Boone River. We denied these violations. None of your multiple, voluminous rules and regulations seem to apply to the matters we have at hand, such as pollution, hazardous materials, and depositing of solid scrap on our own premises. Since this has now generated into a very complicated situation, we are struggling to get a basis of regulations or some guidelines by which we can correct, cooperate, do what we have to if we are in violation, and we don't admit we are in violation, to comply with your orders and cooperate.

Mr. Lund explained that the purpose of wanting the Commission to hear the case is the complexity of the issues and that standards or guidelines do not appear to be set that will resolve the issues raised.

Keith Uhl stated that if there are not applicable standards to cover particular facts, it is a matter of law rather than fact and the Commission does not have authority in a violations proceeding to make rules or standards to govern Mr. Lund's situation.

Mr. Lund stated that it is a legal matter and he is trying to get it to a point where he can get it to a judicial body in district court.

A lengthy discussion followed regarding EPA testing, federal standards, guidelines, adequate standards, and hearing officers.

Motion was made by Wayne Gieselman to deny the transfer of the hearing to the Commission. Seconded by Nancylee Siebermann. Discussion followed regarding EPA and their findings at Handi-Klasp and Royal Products companies.

Chairman Schlutz informed Mr. Lund that he has the right to appeal back to the Commission if he is not in agreement with the hearing officer's decision.

Chairman Schlutz called for a vote on Wayne Gieselman's motion. Motion carried unanimously.

The Commission agreed to a teleconference call to be made on Monday, January 26 at 3:00 p.m. to approve the proposed legislation on Hazardous Waste Siting.

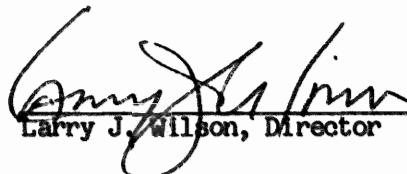
NEXT MEETING DATES

February 17, 1987
March 16-17, 1987
April 20-21, 1987

ADJOURNMENT

Motion was made by Catherine Dunn to adjourn. Seconded by Wayne Gieselman.
Motion carried unanimously.

With no further business to come before the Environmental Protection Commission, Chairman Schlutz adjourned the meeting at 5:15 p.m. on Monday, January 20, 1987.


Larry J. Wilson, Director


Charlotte Mohr, Secretary

(EPC/1-87)

Appointments
11:00 A.M. - Stewart Lund with
Handi-Klasp, Inc.

MEETING AGENDA
ENVIRONMENTAL PROTECTION COMMI
WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

January 20-21, 1987

2:00 p.m. - Wm. Mervick or
Dave Elgin with
Tri-Co. Feeder Sig Assoc.

Meeting Convenes at 10:00 a.m., 4th floor conference

Public Participation

- polated* -
1. Approval of Agenda.
 2. Approval of Minutes of December 15-16, 1986 and January 6, 1987.
Decision.
 3. Legislation Package. (Fagerland) Decision.
 4. Monthly Reports. (Stokes) Informational.
 5. Contract for Pretreatment Circuit Rider. (Stokes) Decision.
 6. Description of Rules for Ground Water Monitoring at Landfills.
(Stokes) Informational.
 7. Rule Adoption--567 Chapter 2, Public and Confidential Information.
(Combs) Decision.
 8. Rule Adoption--567 Chapter 3, Submission of Information and
Complaints/Investigations. (Combs) Decision.
 9. Notice of Intended Action--Chapter 5, Rulemaking Procedures -
Withdrawal. (Combs) Decision.
 10. Notice of Intended Action--Chapter 6, Declaratory Rulings. (Combs)
Decision.
 11. Referrals to Attorney General's Office. (Combs) Decision.
 12. Proposed Contested Case Decision--Long Branch Maintenance
Corporation. (Combs) Decision.
 13. Handi-Klasp Company, Inc. and Royal Products
Company, Inc.--Application to Transfer Hearing. (Combs) Decision.

NEXT MEETING DATES

February 16-17, 1987
March 16-17, 1987
April 20-21, 1987

MEETING AGENDA
ENVIRONMENTAL PROTECTION COMMISSION
WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

January 20-21, 1987

Meeting Convenes at 10:00 a.m., 4th floor conference room.

Public Participation

10:30 a.m.

1. Approval of Agenda.
2. Approval of Minutes of December 15-16, 1986 and January 6, 1987. Decision.
3. Legislation Package. (Fagerland) Decision.
4. Monthly Reports. (Stokes) Informational.
5. Contract for Pretreatment Circuit Rider. (Stokes) Decision.
6. Description of Rules for Ground Water Monitoring at Landfills. (Stokes) Informational.
7. Rule Adoption--567 Chapter 2, Public and Confidential Information. (Combs) Decision.
8. Rule Adoption--567 Chapter 3, Submission of Information and Complaints/Investigations. (Combs) Decision.
9. Notice of Intended Action--Chapter 5, Rulemaking Procedures - Withdrawal. (Combs) Decision.
10. Notice of Intended Action--Chapter 6, Declaratory Rulings. (Combs) Decision.
11. Referrals to Attorney General's Office. (Combs) Decision.
12. Proposed Contested Case Decision--Long Branch Maintenance Corporation. (Combs) Decision.
13. Handi-Klasp Company, Inc. and Royal Products Company, Inc.--Application to Transfer Hearing. (Combs) Decision.

NEXT MEETING DATES

February 16-17, 1987
March 16-17, 1987
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